



**THE CITY OF NEW YORK
LAW DEPARTMENT**

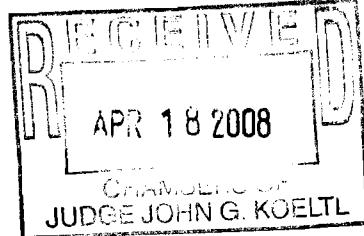
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April 18, 2008



BY FACSIMILE (212) 805-7912

The Honorable John G. Koeltl
United States District Judge
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: Eugene Frazier and William Gonzalez v. City of New York, et al.,
08 Civ. 3472 (JGK)(JCF)

Your Honor:

I am Senior Counsel in the office of Michael A. Cardozo, Corporation Counsel of the City of New York, representing defendant City of New York in the above-referenced matter. I write with respect to the above-referenced matter in which plaintiff alleges that his constitutional rights were violated by defendants. Defendant City respectfully requests an extension of time to answer or otherwise respond to this complaint from April 30, 2008 until June 30, 2008. Plaintiff has consented to this request for an extension of time.

There are several reasons for seeking an enlargement of time in this matter. In accordance with this office's obligations under Rule 11 of the Federal Rules of Civil Procedure, we need time to investigate the allegations of the complaint. Furthermore, it is our understanding that the records of the underlying criminal actions, including police records, may have been sealed pursuant to New York Criminal Procedure Law § 160.50. Therefore, this office is in the process of forwarding to plaintiff for execution authorizations for the release of sealed arrest and criminal prosecution records so that defendant can access the information, properly assess the case, and respond to this complaint.

**APPLICATION GRANTED
SO ORDERED**

4/18/08 *G. Koeltl*
G. Koeltl, U.S.D.J.

Additionally, upon information and belief, the named individual defendant, Detective William Henges, has not been served with the summons and complaint in this action. This extension should also allow plaintiff time to serve the individual defendant.¹ Moreover, if timely served, it may also give this office an opportunity to determine whether the officer is entitled to representation by this office. *See Mercurio v. The City of New York, et al.*, 758 F.2d 862, 864-65 (2d Cir. 1985) (quoting *Williams v. City of New York, et al.*, 64 N.Y.2d 800, 486 N.Y.S.2d 918 (1985) (decision whether to represent individual defendants is made by the Corporation Counsel as set forth in state law)).

No previous request for an extension has been made by defendant City of New York. Accordingly, we respectfully request that defendant City of New York's time to answer or otherwise respond to the complaint be extended to June 30, 2008.

Thank you for your consideration herein.

Respectfully submitted,



Mark D. Zuckerman
Senior Counsel

cc: Jeffrey A. Rothman, Esq. (Via Facsimile)

¹ Plaintiff's counsel informed me that he attempted to serve Detective Henges but was not successful. I will endeavor to promptly ascertain, if possible, why he was unsuccessful and inform him of a location where Detective Henges may be served with process and/or Detective Henges' status with the NYPD.